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Subject:
Date: 04/05/2010 08:46 AM

Eric and Chip –

We appreciate you meeting with us on March 29, 2010 to discuss PRGs and CDF Performance Standards for the Portland Harbor FS. We thought it would be useful to briefly summarize our understanding of the paths forward on these subjects that came out of the meeting.

Focused PRGs

Regarding the use of PRGs in the development of the FS, it is our understanding that:

- EPA is requiring the LWG to consider all of the PRGs in the focused PRG list (as presented in the list LWG provided to EPA in a March 24, 2010 email).
- EPA is allowing the LWG to present in the FS technical information and evaluations regarding the uncertainty, reliability, and general strength of the lines of evidence (LOE) supporting each PRG.
- EPA is allowing the LWG to compare PRG-indicated areas to the areas where risks were actually found in the risk assessment and not map out areas that are inconsistent with the risk assessment findings.
- EPA is allowing the LWG to present and discuss how risk assessment exposure assumptions underlying the PRGs may not equate to expected actual exposures now or in the future (e.g., the actual expected water depths of future clam collection or the expected water depths that sculpin are expected to regularly inhabit).
- EPA is allowing the LWG to discuss and present issues related to data quality, data density, and related mapping results that may impact the accuracy or interpretation of PRG mapping.
- EPA understands that the LWG will use the results of the above evaluations to determine how PRGs are utilized in various stages of the FS analysis.
- EPA is expecting LWG to conduct a comprehensive benthic analysis for mapping benthic risk areas that includes the following components:
 - LWG will consider all the benthic SQGs in the March 24, 2010 list in the analysis, but some SQGs may be found to be inconsistent with other LOEs listed below and may be segregated from further use in the FS.
 - Sediment toxicity bioassays will form the primary LOE for this analysis
 - The analysis will consider the number and degree exceedance of SQGs
 - The analysis will consider TZW and benthic tissue TRVs as other LOEs
 - The analysis will consider the presence/absence of nearby sources and examine benthic community structure (e.g., via sediment profile imaging and related information)

- The analysis will consider data quality and data density issues for the SQGs.
- The EPA will not require the LWG to develop or use bird egg LOE PRGs at this time, but EPA may be independently developing such PRGs and may provide those to LWG at some later time. At that time, the LWG will indicate to EPA whether the LWG is 1) willing to incorporate such PRGs into the FS and/or 2) whether the PRGs were provided too late in the process to be incorporated into the alternatives screening and/or the draft FS without schedule delays.

It is our understanding the EPA will provide a letter to LWG that is generally consistent with the above understandings and will allow the LWG some overall flexibility in development and presentation of the above evaluations in the FS. It is our understanding that the letter will outline EPA's expectations at a general level, will not delve into specific requirements, and will not contain new general or specific requirements that were not discussed during the meeting. We also understand that the letter will not be directive in nature so that creation of a formal dispute deadline by this letter is avoided.

CDF Performance Standards

Regarding the CDF performance standards two general issues were discussed.

First, the issue of "design" level standards was discussed. The LWG proposed that each design level standard (as designated by LWG) will be qualitatively and briefly discussed in manner that compares between alternatives. Accordingly, specific quantitative estimates related to costs, feasibility, or effectiveness will not be developed in the FS for these design level standard issues. It is our understanding that EPA will discuss this LWG proposed concept further with the EPA FS team to determine if EPA can agree to this overall approach. The LWG indicated that if this overall approach to design level comments cannot be agreed to, then LWG would need to discuss with EPA the level of expected detail in the FS for each design level standard and that these discussions would likely significantly delay the FS schedule.

Second, the issue of groundwater discharge performance standards was discussed. The LWG sought clarification that EPA's requirement to not allow any dilution in surface water applies to mechanisms taking place in the actual surface water body. The LWG indicated this prohibition was assumed to not include mechanisms of surface water exchange that occur within sediment near the sediment/surface water interface. EPA agreed that their prohibition of accounting for surface water dilution was limited to mechanisms that occur within the water column itself, not within the surface sediment.

The LWG indicated that the EPA required performance standards and assumptions were sufficiently conservative (particularly in combination) that they would greatly increase the assumed costs associated with CDFs and could unfairly bias the FS analysis away from CDFs, and, if similarly applied to caps, would make standard isolation caps (e.g., 1 to 3 feet of clean sand) infeasible for many of the localized AOPC areas (e.g., assume no chemical biodegradation, including polycyclic aromatic hydrocarbons compounds). EPA indicated that it was not their intent to unfairly bias the FS analysis away from CDFs or to preclude capping in areas that would normally be expected to be feasibly capped. However, EPA indicated that they could not alter their proposed groundwater discharge performance standards or assumptions without a more detailed understanding of the basis for the LWG's contentions. Consequently, it is our understanding that EPA is still requiring an analysis in the FS using the groundwater discharge performance standards and assumptions required by the EPA comments. However, EPA is expecting the LWG to propose alternative groundwater discharge performance standards and assumptions to better understand the implications of the EPA required performance standards, and to use the appropriate alternative performance standards and assumptions in the detailed evaluation of the FS based on this analysis.

Our understanding of the process path forward on CDF standards is that 1) EPA will reply verbally to the LWG within approximately a week on the proposed overall approach to design levels standards and 2) the LWG will prepare a formal response to EPA's performance standards that will be submitted

to EPA prior to expiration of the extended dispute deadline (April 16, 2010).

Please let me know if you have any questions about the above understandings.

Thanks much.

Jim McKenna.